

State of South Dakota

SEVENTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2003

391I0259

HOUSE BILL NO. 1057

Introduced by: Representatives Madsen, Cutler, Gillespie, McCaulley, O'Brien, Peterson (Bill), and Peterson (Jim) and Senators Diedrich (Larry) and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide victims of crimes the right to copies of certain
2 law enforcement reports.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-28C-1 be amended to read as follows:

5 23A-28C-1. Consistent with § 23A-28C-4, victims of the crime, including victims of driving
6 under the influence vehicle accidents, have the following rights:

7 (1) ~~Notification~~ To be notified of scheduled bail hearings and release from custody,
8 ~~notification~~ to be notified by the prosecutor's office when the case is received and to
9 whom the case is assigned, and ~~notification~~ to be notified in advance of the date of
10 preliminary hearing and trial;

11 (2) To be informed of what the charges mean and the elements necessary for conviction;

12 (3) To testify at scheduled bail or bond hearings regarding any evidence indicating
13 whether the offender represents a danger to the victim or the community if released;

14 (4) ~~Protection~~ To be protected from intimidation by the defendant, including enforcement
15 of orders of protection;



- 1 (5) To offer written input into whether plea bargaining or sentencing bargaining
2 agreements should be entered into;
- 3 (6) To be present during all scheduled phases of the trial or hearings, except where
4 otherwise ordered by the judge hearing the case or by contrary policy of the presiding
5 circuit judge;
- 6 (7) To be prepared as a witness, including information about basic rules of evidence,
7 cross-examination, objections, and hearsay;
- 8 (8) To provide to the court a written or oral victim impact statement prior to sentencing
9 regarding the financial and emotional impact of the crime on the victim and his or her
10 family as well as recommendations for restitution and sentencing and § 23A-28-8
11 notwithstanding, the right to appear at any hearing during which a change in the plan
12 of restitution is to be considered;
- 13 (9) ~~Restitution~~ To receive restitution, whether the convicted criminal is probated or
14 incarcerated, unless the court or parole board provides to the victim on the record
15 specific reasons for choosing not to require it;
- 16 (10) To provide written input at parole hearings or with respect to commutations of
17 sentences by the Governor, should those options be considered;
- 18 (11) In a case in which the death penalty may be authorized, to provide to the court or to
19 the jury, as appropriate, testimony about the victim and the impact of the crime on the
20 victim's family; ~~and~~
- 21 (12) ~~Notification~~ To be notified of the defendant's release from custody, which notice
22 includes:
 - 23 (a) Notice of the defendant's escape from custody and return to custody following
24 escape;

1 (b) Notice of any other release from custody, including placement in an intensive
2 supervision program or other alternative disposition, and any associated
3 conditions of release;

4 (c) Notice of parole; and

5 (d) Notice of pending release of an inmate due to expiration of sentence;

6 (13) ~~Notification~~ To be notified of the victim's right to request testing for infection by
7 blood-borne pathogens pursuant to § 23A-35B-2; and

8 (14) To be provided a copy of any report of law enforcement that is related to the crime,
9 upon request. However, no victim may be given the criminal history of any defendant
10 or any witness.